

MEETING SUMMARY
PART 40 JURISDICTIONAL WORKING GROUP
DECEMBER 13, 2001

Attendees

Torre Taylor, NRC/NMSS
Gary Comfort, NRC/NMSS
Loren Setlow, EPA
Ken Weaver, State of Colorado
representing OAS and CRCPD¹
(via teleconference)

Cathy Mattsen, NRC/NMSS
Dennis Sollenberger, NRC/OSTP
Hal Peterson, DOE/EH

Guests

James Kennedy, NRC/DWM
Steve Collins, State of Illinois Radiation Control Program

This was a public meeting of the Part 40 Jurisdictional Working Group. Members of the public did attend the meeting. The following is a summary of the topics that were discussed.

NRC Web Site

Due to the terrorist attacks, the NRC web site was pulled down for review for sensitive information. Therefore, information from the working group is not available through the web. The documents are in ADAMS. When the new web site is put back online the new web site address will be: www.nrc.gov ► nuclear materials ► source material facilities. There should be a link to "revising source material regulations" and the jurisdictional working group.

Part N -TENORM, Suggested State Regulation, Conference of Radiation Control Program Directors

James Kennedy, NRC/DWM, discussed NRC's comments, dated August 10, 2001, on Part N - TENORM, Suggested State Regulations, Conference of Radiation Control Program Directors (CRCPD). Mr. Kennedy provided a description of NRC's perspective in commenting on the document:

- (1) NRC has no authority over TENORM.
- (2) NRC wants to promote consistency in regulation of nuclear materials and risk management standards and approaches.
- (3) TENORM is both similar to and different from AEA materials.
- (4) The states and CRCPD have authority to set policy over how TENORM is to be handled.
- (5) NRC acknowledges NAS recommendations.

The NRC comments to the CRCPD that are specific to the work of this group [jurisdictional working group] are (a) strengthen the justification for the zircon exemption, and (b) explain in the rationale what consideration has been given to setting a concentration standard for other

¹the Organization of Agreement States and the Conference of Radiation Control Program Directors

radionuclides.

Part N Rationale and Implementation Guidance

The group was provided information from the Part N Rationale and Implementation Guidance, specifically related to the proposed exemption. These documents discuss in more detail the proposed exemption and the data the Part N working group reviewed. Mr. Steve Collins, with the State of Illinois Radiation Control Program, and Chairman of the Part N Working Group, discussed this information. In addition to information received from Mr. Charlie Simmons, the Part N working group reviewed data from Australia and South Africa on the mining and processing of zirconium. Where possible, the Part N working group looked at real data instead of relying on default values.

Mr. Ken Weaver provided a brief summary of his discussions at the Organization of Agreement States (OAS) meeting and his discussion with a representative with the Florida Radiation Control Program. In general, there was not much feedback from the OAS meeting. The representative from the Florida Radiation Control Program stated that there is not a big problem with occupational exposures from zirconium processing operations in the State. The working group was not provided with any additional information regarding the basis behind this statement.

NUREG-1717, "Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials"

The group was provided with the remaining information on the specific results of NUREG-1717, Sections 3.2 and 3.3. NRC is still evaluating some discrepancies and reviewing two of the references. The working group members would prefer to evaluate the results with newer dose methodology. There was additional discussion about other data, such as that reviewed by the Part N working group and information previously received from Mr. Charles Simmons. Additionally, Dr. Dave Bernhardt discussed his work in the area of NORM/TENORM, and the information he provided to the Part N working group. One problem that is recognized by the working group is that there is limited information about the industries that use TENORM.

Summary of Options from SECY-99-259

NRC provided a summary of SECY-99-259, "Exemption in 10 CFR Part 40 for Materials less than 0.05 Percent Source Material - Options and Other Issues Concerning the Control of Source Material," which includes an options paper as an attachment. The working group also looked at a summary of the options by category and common pros and cons in each of the categories. NRC is looking for any comments from working group members on the options, as well as any options that need to be added, and encouraged the members of the public to also provide any comments. NRC will continue to review and evaluate these options in preparation for the next working group meeting. There was discussion regarding a Memorandum of Understanding (MOU) with EPA. It was noted that an MOU would only be appropriate if EPA has the legislative authority already in place. Mr. Weaver stated that the OAS prefers a unified approach at a Federal level with the States becoming the implementors. Mr. Weaver also indicated that another option that needs to be considered is related to exemptions, general

licenses, and specific licenses with thresholds for each.

Mr. Weaver summarized three priorities for the States: 1) adequate protection of health and safety, 2) emphasis on a consistent federal framework across the spectrum of radioactive issues, and 3) enhance, not interfere with, the state regulatory programs.

Discussion of Jurisdictional Issues

The working group agreed that it would not be worth going through a provided list of materials or processes that possibly contained source material and identify a specific agency having regulatory authority. NRC staff noted that we need to try to identify any gaps in jurisdictional authorities, as directed by the Commission and we were trying to use a list as a tool. There was strong opposition, from the public attending the meeting, to the working group trying to complete such a table; there were too many legal issues which would go beyond the working group's authority. The working group agreed to not go forward with the table. Ms. Taylor agreed to review the jurisdictional citations previously provided to use in preparing a discussion for the Commission paper.

Points for Commission Paper

Ms. Taylor provided a summary of key points for the Commission paper, developed from prior working group meetings and discussions. Mr. Setlow indicated that a point that needs to be made is the number of waste sites that would be affected by TENORM regulations.

Action Items

NRC staff will continue its work on the technical issues regarding NUREG-1717.

NRC staff will continue its review of the options for discussion at the next meeting.

Mr. Weaver offered to provide additional input from the States' perspective on the options.

Mr. Weaver offered to evaluate the option to have thresholds for exemptions, general licenses, and specific licenses.

These items will be completed in time for discussion at the next meeting.

The next meeting was not scheduled at this time, but will probably be in March.